REMARKS

Reconsideration and allowance of the application on the basis of the foregoing amendments and for other reasons are respectfully requested.

Seven claims (2 - 6, 18, and 26) are pending in the application. Claims 2 - 6 and 26 stand rejected. Claim 18 is allowed. Nineteen claims (1, 7 - 17, and 19 - 25) stand canceled.

Applicants take up in-turn the sections in the DETAILED ACTION.

Claim Rejections - 35 USC 112

The Examiner stated that there "is insufficient antecedent basis for this limitation ['to claim' in line 1 of claim 3]". Claim 3 has been amended to correct the claim dependency. The oversight is regretted.

Claim Rejections - 35 USC 103

Claims 2, 4, and 5 were rejected under 35 USC 103(a) as being upatentable over Perett (92002/0046422) in view of Hjortsberg (4,908,497), the Examiner noting that "Perett does not disclose a low-level of extremely low frequency electromagnetic fields", but urging that "it would have been obvious to ... modify Perett's invention to include the heating elements of Hjortsberg in order to reduce potential harmful effects of magnetic fields produced by room heating sources". Reconsideration is requested.

Perett employs infrared ceramic heating elements 22 and 68.(pages 1 and 2, paragraph 0017). While it is true that Hjortsberg "discloses two electric heating elements 1 ands 2 that can be used in heating panels where the device is brought into proximity with the human body", it is not seen how Perett's ceramic heaters can be modified according to the teachings of Hjortsberg to produce "continuously-active broad alternating-current electric infrared heaters emitting a low level of extremely-low-frequency electromagnetic fields for heating the infrared source elements."

Thus the "EMF-safe, readily-portable without being disassembled, compact sauna for causing a user to sweat" of claims 2, 4, and 5, is not taught by any combination of Perett and Hjortsberg.

Moreover, it is improper to use Hjortserg to modify Perett to anticipate applicants' invention. The substitution of Hjortsberg heating elements for Perett's infrared ceramic heating elements would remove infrared heating from Perett's sauna. A "long wave infrared bath" was the target of Perett's invention (page 1, paragraph 0001; claim 1). . The destructive modification of one device to anticipate another was declared improper in Ex Parte Johnson, 17 USPQ 374 (1932): "Where modification of the structure shown by a reference to meet the claims of applicant's application would require reconstruction of the device by removing parts that are essential for the intended operation and by substituting others which were not contemplated, rejection of the claims on such a reference is not sound." See also Johnson v. Tvedt, 244 F. 189, which held: "In order to constitute anticipation of a patented invention it is not sufficient that the device relied upon might with some change be made to accomplish the function performed by that invention if it were not designed by its maker to accomplish it or actually used for its accomplishment."

Claims 2, 4, and 5 are patentable over Perett in view of Hjortsberg!

Claim 3 was rejected under 35 USC 103(a) as being unpatentable over Perett in view of Hjortsberg and further in view of Hochstein (5,649, 972). Reconsideration is requsted.

Claim 3 is now dependent on claim 2. As observed above with respect to claim 2, Perett in view of Hjortsberg does not teach substantially the claimed invention. Thus claim 3 is allowable along with claim 2.

Applicants agree that Perett in view of Hjortsberg does not disclose protrusioins. But neither does Hochstein. Hochstein does not even teach the "protrusioned infrared source elements of a low heat conductance material safe to touch disposed in close proximity about the user so that infrared radiation absorbed by the user constitutes the primary means for inducing the user to sweat and uniformly about the user so that the user is evenly heated" of claim 2. Applicants urge that the so-called "fins-protrusions

70" of Hochstein are not fabricated from a material having low thermal conductivity and therefore inherently comfortable to touch even though the base 44 is at uncomfortable temperature.

First, it should be observed that the function of the fins-protrusions 70 is "for stagnating flow of a fluid medium such as air, adjacent the radiation generating element 42". (Col. 8, lines 20-22). Then it should be observed that nowhere does the patent say that the intent is to provide free ends 72 that are "therefore inherently comfortable to touch"! It is true that the patent states that "The conduits 70 defining the pockets 73 are conventionally fabricated from a material having low thermal conductivity such a stainless steel, a ceramic material, glass or the like." (col. 8, line 66 - col. 9, line 2); but then it states that the inner surfaces 75 "can comprise a coating or plating with such materials as aluminum, nickel, gold" (col. 9 lines 8 - 10), some of the best thermal conductors known. Thus it appears that Hochstein did not teach "closely-spaced protrusions ... which project away from the base and present temperatures comfortable to touch even though the base is at uncomfortable temperature". Moreover, Hochstein appears to have tried to solve the problem in two other ways: 1) he employed a fan 57 to force flow of air through a duct portion of the fan housing 58 to cool external tissues during irradiation (col. 10, lines 24-28); and 2) a gasket 76 is located for sealing and separating the conduits 70 from the radiation generating element 42 (col. 10., lines 1-3). Nor does Hochstein teach fins separated by less than a finger width to heat the user and prevent him from being hurt by heat when he gets in contact with the heater. Thus the claim 3 limitation that the protrusions "are spaced close enough to thwart fingers being inserted between them" further distinguishes the claim patentably over the art..

Hochstein just does not help render applicants' claim 3 invention obvious.

Claim 6 was rejected under 3 USC 103(a) as being unpatentable over Perett in view of Hjortsberg and further in view of Grise et al (4,485,927); the Examiner after stating that "Perett in view of Hjortsberg discloses substantially the claimed invention including a film-substrate disclosed by Hjortsberg ... , but does not disclose the substrate bearing a semiconductor pattern, a pair of longitudinal stripes and a metallic conductor overlaying each stripe", and further stating that "Grise discloses heaters having a plurality

of bars 18 of the semiconductor pattern ..., a pair of longitudinal stripes 14 interconnected with the bars and a metallic conductor 22 overlaying each stripe". He then opines that it would have been obvious "to modify the invention of Perett in view of Hjorsberg to include a plurality of bars, a pair of longitudinal strips and a metallic conductor overlaying each stripe in order to have a high uniformity of heating at reduced cost as taught by Grise (Col. 1, lines 20-25". Reconsideration is requested.

Claim 6 is dependent on claim 5 dependent on claim 2 Thus claim 6 is allowable for all of the reasons that the respective claims 2 and 5 are.

Applicants urge that Perett in view of Hjortsberg does not disclose substantially the claimed invention, as noted above. Hence the rejection of claim 6 in whole or in part on Perett in view of Hjortsberg, is improper.

It should be noted that claim 6 requires that "dual ones of the heaters are planar ones comprised of a thin common substrate bearing on each side a semi-conductor pattern having a) a plurality of identical electrically-resistive elements spaced apart from each other and radiating infrared energy when electrical current is passed through them". Griese jusr does not tech this, and thus does not make up for this deficiency in Perett in view of Hjortsberg.

Claim 26 was under 35 USC 103(a) as being unpatentable over Perett in view of Hjortsberg and further in view of Hochstein, the Examiner alleging that "Perett in view of Hjortsberg discloses substantially the claimed invention including a plastic inherently electrically insulating film-sustrate ..., but does not disclose protrusions of low heat conducting material" and then stating that "Hochstein discloses an apparatus 10 comprising an infrared source 42 comprising a base 44 to be inherently heated to uncomfortable to touch temperature ...and fins-protrusions 70 fabricated from a material having low thermal conductivity ...".

Applicants urge that Perett in view of Hjortsberg does not disclose substantially the claimed invention, as noted above. Hence the rejection of claim 26 in whole or in part on Perett in view of Hjortsberg, is improper. Nor does Hochstein make up for the deficiencies of Perett in view of Hjortsberg.

Moreover, Hochstein does not make up for the other requirements of claim 26.

Claim 26 requires, inter alia, that "the dual infrared heater is comprised of two sets of parallel electrically-resistive bars, the corresponding bars of the respective sets being juxtaposed, electric conductors interconnecting corresponding ends of the bars, and connectors for applying 180 degrees out of phase electrical current to the respective sets of conductors so that current flows in opposite directions in corresponding bars at any given point in time; wherein the finned infrared sources comprise of a base adapted to be heated to uncomfortable-to-the-touch but sufficiently-high temperatures to provide effective infrared radiation, and closely-spaced protrusions of a low heat-conductance material which project away from the base and present temperatures comfortable to the touch even though the base is at uncomfortable temperatures; and wherein the heaters are in an extremely-low-frequency electro-magnetic-field power wiring system for connecting an alternating current source to a load, comprising a first electrical power conductor for supplying the alternating current from the source to the heaters and emanating an extremely-low-frequency electro-magnetic field when so doing, a second electrical power conductor for returning the alternating current from the heaters to the source and emanating an extremely-low-frequency electro-magnetic field when so doing, the first and second electrical power conductors being juxtaposed so that the extremely-low-frequency electro-magnetic fields when obtaining cancel each other, and an electrical insulator separating the two conductors". As noted above, Hochstein does not teach "closely-spaced protrusions of a low heat-conductance material which project away from the base and present temperatures comfortable to the touch even though the base is at uncomfortable temperatures". Hochstein's inner surfaces 75 "can comprise a coating or plating with such materials as aluminum, nickel, gold" (col. 9 lines 8 - 10), some of the best thermal conductors known.

Hochstein does not teach that the heaters "are in an extremely-low-frequency electro-magnetic-field power wiring system for connecting an alternating current source to a load, comprising a first electrical power conductor for supplying the alternating current from the source to the heaters and emanating an extremely-low-frequency electro-magnetic field when so doing, a second electrical power conductor for returning the alternating current from the heaters to the source and emanating an extremely-low-

frequency electro-magnetic field when so doing, the first and second electrical power conductors being juxtaposed so that the extremely-low-frequency electro-magnetic fields when obtaining cancel each other, and an electrical insulator separating the two conductors".

Thus the structure of claim 26 is not obvious from the references.

Wherefore applicants submit that this application is in condition for allowance, which favorable action at an early date is earnestly solicited

A Petition for a one-month extension of time accompanies this Amendment

Respectfully submitted

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Accompaniment

Certificate of Mailing - The undersigned certifies that this correspondence addressed to the Mail Stop Fee Amendments, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, has been deposited with the U.S. Postal System as first class mail with sufficient postage this December 9, 2005 by the undersigned.

Joseph B. Taphorn